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Client Reference: PC0238A2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION of:
J STEPHEN FINK

Confirmation No: 4628

Application No.: 10/823,632

Group Art Unit: 1763

Filed: April 14, 2004

Examiner: LUND, Jeffric Robert

Title: PLASMA REACTOR

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

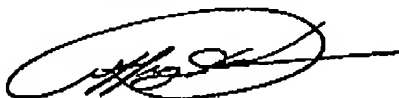
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Response to Restriction Requirement

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RESPONSE TO RESTRICTION REQUIREMENT
UNDER 35 U.S.C. § 121

Hon. Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

On December 13, 2005, the Examiner issued a Restriction Requirement for the above-captioned patent application. The date for responding to this communication is January 13, 2006.

In the Restriction Requirement, the Examiner identified two inventions, which are characterized as follows: (1) Group I, encompassing claims 1-30, drawn to a plasma reactor, and (2) Group II, encompassing claims 31-33, drawn to a method of accessing a chuck assembly. The Examiner required restriction between these two inventions.

In response, the Applicant elects Group I, encompassing claims 1-30, for further prosecution, with traverse.

The Applicant respectfully directs the Examiner's attention to MPEP § 808, which states: "Every requirement to restrict has two aspects: (A) the reasons (as distinguished from the mere statement of conclusion) why the inventions *as claimed* are either independent or distinct; and (B) the reasons for insisting upon restriction therebetween as set forth in the following sections." (Italics emphasis is in original.) In addition, MPEP § 808.02 states: "The examiner, in order to establish reasons for insisting upon restriction, must show by appropriate explanation one of the following: (A) Separate classification thereof; (B) A separate status in the art when they are classifiable together; (C) A different field of search."

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The Applicant respectfully submits that the criteria for a proper restriction requirement has not been met. Moreover, it is respectfully submitted that the search and examination of the entire application can be made without a serious burden on the Examiner. Accordingly, it is respectfully submitted that the Restriction Requirement should be withdrawn.

Claims 1-30 recite a plasma reactor that includes a vacuum chamber, a chuck assembly, a plasma source assembly, and a holding structure constructed and arranged to hold the chuck assembly and the plasma source assembly, wherein the holding structure at least partially constitutes a wall of the vacuum chamber. Claims 31-33 recite a method of accessing a chuck assembly and a plasma source assembly in a plasma reactor, the chuck assembly and the plasma source assembly the held by a holding structure, the method including pivoting the holding structure around a pivot axis parallel to a surface of the holding structure, the holding structure constituting at least a portion of a wall of a vacuum chamber, and opening up a volume space in the vacuum chamber. All of the claims, therefore, include the feature that the holding structure constitutes at least a portion of a wall of a vacuum chamber. As a result, the Applicant respectfully submits that all of the claims share at least one common thread. The Applicant does acknowledge the Examiner's assertion that the process can be used to make other and materially different products. However, given at least the common thread recited by both the apparatus and method claims, the Applicant respectfully questions the propriety of the Examiner's argument in support of the Restriction Requirement.

In addition, due at least in part to the common threads shared by the claims, the Applicant respectfully submits that there is no undue burden on the Examiner to examine all of the claims together. In other words, it is respectfully submitted that the search and examination of the claims within elected Group I necessarily encompasses the search and examination for the claims within non-elected Group II. In addition, it is respectfully submitted that the Restriction Requirement should be withdrawn to prevent duplicative examination by the Patent Office and unnecessary expense to the Applicant.

The Applicant, therefore, respectfully requests reconsideration and withdrawal of the Restriction Requirement.

Early favorable action on the merits of this application is respectfully requested.

Respectfully submitted

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